

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WILLIAM PARKER,)	
)	
Plaintiff,)	Hon. J. Nicholas Ranjan
)	
v.)	2:23-cv-2102-NR
)	
EDWARD GAINEY, et al.,)	JURY TRIAL DEMANDED
)	
Defendants.)	

**DEFENDANT KERRY FORD’S PARTIAL MOTION TO DISMISS PLAINTIFF’S
COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendant Detective Kerry Ford (“Detective Ford”) respectfully submits this Motion to Dismiss the Fourth Amendment malicious prosecution claim, Fourteenth Amendment claim, and duplicative First Amendment and Fourth Amendment claims filed against him by Plaintiff William Parker (“Mr. Parker”).

1. Mr. Parker filed the instant action against Detective Ford and other defendants alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. ECF No. 1.

2. The complaint sets forth the following claims against Detective Ford: (1) Fourth Amendment excessive force; (2) Fourth Amendment false arrest; (3) Fourth Amendment malicious prosecution; (4) First Amendment retaliation; (5) a second claim of First Amendment Retaliation; (6) a second claim of Fourth Amendment excessive force, false arrest, and malicious prosecution; and (7) a Fourteenth Amendment claim for failure to train, discipline, or supervise. *Id.*

3. Mr. Parker’s Complaint alleges that Detective Ford filed an affidavit of probable cause in support of criminal charges filed against him. *Id.* ¶ 27.

4. Mr. Parker alleges that Detective Ford did not personally witness the events underlying his arrest, and therefore it would have been “more suitable” for Detective Michael Gay to author the affidavit. *Id.*

5. Based on these facts, Mr. Parker has failed to state a claim against Detective Ford for malicious prosecution.

6. Even if there are sufficient facts to state a claim for malicious prosecution, Detective Ford is entitled to qualified immunity.

7. Mr. Parker also states a Fourteenth Amendment claim against Detective Ford for failure to train, discipline, and/or supervise. *Id.* ¶¶ 45-51.

8. To the extent Mr. Parker is stating claims related to his arrest and prosecution under the Fourteenth Amendment, Mr. Parker cannot bring such claims because they are properly brought under the Fourth Amendment. *See Albright v. Oliver*, 510 U.S. 266, 273 (1994).

9. To the extent Mr. Parker is stating a *Monell* claim against Detective Ford, this claim fails as a matter of law because *Monell* claims cannot be brought against individual defendants. *See Lepre v. Lukus*, 602 F. App'x 864, 869 n.4 (3d Cir. 2015),

10. Mr. Parker also states a second set of First and Fourth Amendment claims against Detective Ford that stem from the same incident as his first set of claims. *Id.* ¶¶ 45-51. These claims should be dismissed because they are redundant.

11. For these reasons, Detective Ford respectfully requests that this Court dismiss Mr. Parker's malicious prosecution claim, Fourteenth Amendment claim, and second set of Fourth Amendment and First Amendment claims against him, as explained in further detail in his Brief accompanying this motion.

12. A proposed order is attached.

Respectfully submitted,

KRYSIA KUBIAK
City Solicitor

/s/ Hillary M. Weaver

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CERTIFICATE OF SERVICE

I, Hillary M. Weaver, hereby certify that I caused a copy of Kerry Ford's Partial Motion to Dismiss and Brief in Support thereof to be served upon the following via electronic mail:

Mr. William Parker
Parkerlegal412@gmail.com
Pro Se Plaintiff

Date: May 10, 2024

/s/ Hillary M. Weaver
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